
By: **Delegates Pendergrass, Miller, Quinter, and F. Turner**
Introduced and read first time: February 3, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Homeowners Associations - Declaration and Recorded Covenants and**
3 **Restrictions - Amendment**

4 FOR the purpose of authorizing a homeowners association to amend certain
5 declarations or recorded covenants and restrictions under certain
6 circumstances; providing for procedures by which an amendment to certain
7 declarations or recorded covenants and restrictions may be proposed; requiring
8 the governing body of a homeowners association to submit a certain proposed
9 amendment to a vote of certain property owners under certain circumstances;
10 requiring the governing body of a homeowners association to give notice of a
11 certain proposed amendment to certain persons over a certain period of time
12 under certain circumstances; requiring a governing body to mail a ballot
13 containing the full text of a certain proposed amendment and certain other
14 information to certain property owners under certain circumstances; providing
15 that only one owner per parcel of land or condominium unit may vote on a
16 certain proposed amendment; requiring that the ballots be received by a
17 governing body within a certain period of time; requiring a majority of certain
18 property owners in a development to vote in a certain election for the election to
19 be valid; requiring a governing body to give notice of the results of a certain
20 election to certain persons within a certain period of time; requiring a governing
21 body to record a certain amendment in the land records of a certain jurisdiction;
22 providing that a certain amendment is effective only on recordation in the land
23 records of a certain jurisdiction; making the provisions of this Act severable; and
24 generally relating to the amendment of the declaration or recorded covenants
25 and restrictions by a homeowners association.

26 BY adding to
27 Article - Real Property
28 Section 11B-113.1
29 Annotated Code of Maryland
30 (2003 Replacement Volume and 2003 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
32 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Real Property**

2 11B-113.1.

3 (A) THIS SECTION APPLIES TO ANY DEVELOPMENT THAT CONTAINS AT LEAST
4 13,000 ACRES OF LAND AND HAS A POPULATION OF AT LEAST 80,000.

5 (B) A HOMEOWNERS ASSOCIATION THAT HAS THE POWER TO LEVY AN
6 ANNUAL CHARGE ON OWNERS OF REAL PROPERTY IN THE DEVELOPMENT BASED ON
7 THE CURRENT ASSESSED VALUE OF THE PROPERTY FOR COUNTY AND STATE
8 PROPERTY TAXES MAY AMEND THE DECLARATION OR ANY RECORDED COVENANTS
9 AND RESTRICTIONS:

10 (1) BY AN AFFIRMATIVE VOTE OF TWO-THIRDS OF THE OWNERS IN THE
11 DEVELOPMENT THAT CAST A VOTE ON THE QUESTION OF THE ADOPTION OF AN
12 AMENDMENT; OR

13 (2) AS SPECIFIED IN THE DECLARATION OR ANY RECORDED COVENANTS
14 AND RESTRICTIONS.

15 (C) (1) AN AMENDMENT TO THE DECLARATION OR ANY RECORDED
16 COVENANTS AND RESTRICTIONS MAY BE PROPOSED:

17 (I) BY A RESOLUTION ADOPTED BY A MAJORITY VOTE OF THE
18 GOVERNING BODY; OR

19 (II) BY A PETITION SIGNED BY AT LEAST 10% OF THE OWNERS IN
20 THE DEVELOPMENT.

21 (2) (I) A PETITION FOR AN AMENDMENT SHALL INCLUDE:

22 1. THE COMPLETE AND EXACT WORDING OF THE PROPOSED
23 AMENDMENT; AND

24 2. THE SIGNATURE, PRINTED NAME, AND RESIDENCE OR
25 BUSINESS ADDRESS OF EACH PERSON SIGNING THE PETITION.

26 (II) ONLY ONE OWNER PER PARCEL OF LAND OR CONDOMINIUM
27 UNIT MAY SIGN THE PETITION.

28 (III) ON RECEIVING THE PETITION, THE GOVERNING BODY SHALL
29 VERIFY THAT EACH PERSON SIGNING IT IS QUALIFIED TO VOTE IN AN ASSOCIATION
30 ELECTION.

31 (D) (1) THE GOVERNING BODY SHALL SUBMIT THE PROPOSED AMENDMENT
32 TO A VOTE OF EACH OWNER OF A PARCEL OF LAND OR CONDOMINIUM UNIT
33 QUALIFIED TO VOTE IN ASSOCIATION ELECTIONS IF:

34 (I) THE RESOLUTION PROPOSING AN AMENDMENT IS ADOPTED BY
35 A MAJORITY VOTE OF THE GOVERNING BODY; OR

1 (II) THE PETITION COMPLIES WITH THE REQUIREMENTS OF
2 SUBSECTION (C) OF THIS SECTION.

3 (2) THE GOVERNING BODY SHALL GIVE NOTICE OF A PROPOSED
4 AMENDMENT WITHIN A PERIOD OF AT LEAST 60 DAYS BEFORE THE ELECTION BY:

5 (I) PUBLISHING A FAIR SUMMARY OF THE PROPOSED
6 AMENDMENT IN THREE NEWSPAPERS OF GENERAL CIRCULATION WITHIN THE
7 DEVELOPMENT NOT LESS THAN TWO TIMES, AT WEEKLY INTERVALS;

8 (II) POSTING A FAIR SUMMARY OF THE PROPOSED AMENDMENT AT
9 THE HEADQUARTERS OF THE ASSOCIATION AND ON THE ASSOCIATION WEBSITE, IF
10 ANY; AND

11 (III) PROVIDING A FAIR SUMMARY OF THE PROPOSED AMENDMENT
12 TO ANY PUBLIC LIBRARIES WITHIN THE COUNTY IN WHICH THE DEVELOPMENT IS
13 LOCATED.

14 (3) (I) THE GOVERNING BODY SHALL MAIL TO THE OWNER OF
15 RECORD FOR EACH PARCEL OF LAND OR CONDOMINIUM UNIT A BALLOT
16 CONTAINING THE FULL TEXT OF THE PROPOSED AMENDMENT.

17 (II) ONLY ONE OWNER PER PARCEL OF LAND OR CONDOMINIUM
18 UNIT MAY VOTE.

19 (III) THE GOVERNING BODY SHALL PROVIDE INFORMATION ON
20 EACH BALLOT STATING THAT THE BALLOT MUST BE RECEIVED BY THE GOVERNING
21 BODY AT THE ADDRESS PROVIDED BY THE GOVERNING BODY ON OR BEFORE A DATE
22 NOT LESS THAN 15 DAYS FOLLOWING THE DATE OF MAILING AND NOT MORE THAN 30
23 DAYS FOLLOWING THE MAILING.

24 (E) IN ORDER FOR AN ELECTION CONDUCTED IN ACCORDANCE WITH THIS
25 SECTION TO BE VALID, A MAJORITY OF THE OWNERS IN THE DEVELOPMENT MUST
26 VOTE IN THE ELECTION.

27 (F) WITHIN 15 DAYS AFTER THE DEADLINE FOR RECEIPT OF THE BALLOTS,
28 THE GOVERNING BODY SHALL GIVE NOTICE OF THE RESULTS OF THE ELECTION IN
29 THE SAME MANNER AS THE GOVERNING BODY GIVES NOTICE OF A PROPOSED
30 AMENDMENT UNDER SUBSECTION (D)(2) OF THIS SECTION.

31 (G) (1) IF AN AMENDMENT IS ADOPTED, WITHIN 15 DAYS AFTER THE
32 ELECTION THE ASSOCIATION SHALL RECORD THE AMENDMENT IN THE LAND
33 RECORDS OF THE JURISDICTION WITHIN WHICH EACH PARCEL OF LAND IS LOCATED.

34 (2) AN AMENDMENT IS EFFECTIVE ONLY ON RECORDATION.

35 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
36 Act or the application thereof to any person or circumstance is held invalid for any
37 reason in a court of competent jurisdiction, the invalidity does not affect other
38 provisions or any other application of this Act which can be given effect without the

1 invalid provision or application, and for this purpose the provisions of this Act are
2 declared severable.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 June 1, 2004.